

# **EXHIBIT 1**

# GERSTEIN HARROW LLP

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Via Email

Re: Pre-Motion Letter in Kent v. PoolTogether, Inc..

Dear Kevin and Ben,

Thanks for speaking just now, and for offering to work with us to get to the bottom of a discrepancy that we see between your pre-motion letter and our understanding of the facts in this case.

You write that “When Plaintiff connected his cryptocurrency ‘wallet’ to the protocol through [PoolTogether’s] interface [on app.pooltogether.com] and deposited \$10 in cryptocurrency into the protocol, he agreed to be bound by Defendant’s terms, which conspicuously provided: ‘By connecting a wallet, you agree to PoolTogether’s Terms of Service.’”

Ben acknowledged on the phone that this agreement language was added to the website only recently. Ben told me that he does not know exactly when the site was changed, that his client does know exactly when the site was changed, but that Ben is certain that it was changed before our client’s “first deposit” with PoolTogether. As the site currently stands, and as we believe it stood when our client used it, terms-and-conditions language is not presented to users who have already connected wallets when they transfer money to PoolTogether’s protocol. Ben said that he believed this was not the case, but that he was not certain. (Ben please let me know immediately if I am misreporting any aspect of our conversation.)

I told you on the phone that I would check and tell you exactly when Kent first connected a wallet and exactly when he transferred money to PoolTogether’s protocol. He connected on October 19, 2021, at 11:26:49 PM Coordinated Universal Time, and he transferred the money on October 21, 2021, at 02:23:28 Coordinated Universal Time.



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You indicated on the phone that you would confirm when your client changed its website such that it presented terms and conditions to users when they connect wallets to the PoolTogether protocol and perhaps when they transfer money. Please do so immediately.

Once we have the facts squared away, we'd like to discuss how best to proceed in this matter, ideally today so that we do not waste further time (and attorneys' fees) responding to your request for arbitration if it does not, in fact, have any basis.

Sincerely,

Charlie Gerstein  
December 17, 2021

GH

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